

**Intergovernmental Water Board
Meeting Minutes
December 13, 2006
Tigard Water Building
8777 SW Burnham Street
Tigard, Oregon**

Members Present: Patrick Carroll, Janet Zeider (alternate for George Rhine), Dick Winn and Sydney Sherwood (alternate for Tom Woodruff)

Members Absent: Tom Woodruff, George Rhine, Bill Scheiderich

Staff Present: Public Works Director Dennis Koellermeier
Water Quality & Supply Supervisor John Goodrich
Financial & Information Services Director Bob Sesnon
IWB Recorder Greer Gaston

1. Call to Order, Roll Call and Introductions

The meeting was called to order at 5:36 p.m.

Note: Item 3 was heard before item 2.

2. Public Comments: None

3. Approval of Minutes – November 8, 2006

Commissioner Winn motioned to approve the November 8, 2006, minutes; Commissioner Sherwood seconded the motion. The motion was approved by unanimous vote.

Note: Item 2 was heard after item 3.

4. Dareen Cook Credit for Leak Request

Mr. Koellermeier introduced Mr. Sesnon. Mr. Sesnon provided the Board with the details surrounding the leak and the credit for leak policy. Ms. Cook's grandson explained that he replaced the water line and the leak was repaired promptly.

Commissioner Winn pointed out the Board had spilt the difference of the remaining balance with previous customers.

The total cost was \$813 and a \$351.26 credit had already been issued. The Board discussed splitting the remaining balance, which would result in an additional credit of \$230.

Commissioner Winn motioned to follow past practice and split the difference between the credit already issued and the total bill; Commissioner Sherwood seconded. The motion was approved by unanimous vote.

5. *Water Building/Asset Discussion*

Mr. Koellermeier explained he and Mr. Sesnon would present this item. Mr. Koellermeier noted he was not proposing any action be taken at this meeting, but was seeking to identify a process to deal with the issue of assets. Mr. Koellermeier referred to materials contained in the Board's packet.

Mr. Koellermeier said Bev Froude, Chairperson of Tigard Water District (TWD), suggested the Board develop a process to decide what it wanted to accomplish related to assets. The process could include public hearings in order to get community input. Mr. Koellermeier proposed the Board might want to consider an amendment to the intergovernmental agreement to resolve asset issues once and for all. He added this resolution should be a win-win situation for all the IWB members.

Current asset issues include the water building and Canterbury property. With regard to Canterbury, Mr. Koellermeier said the agreement had been satisfied, and, in reality, this was surplus property. He proposed a surplus property disposal process because the City of Tigard wants to use the property to build a park. He added a lease of the property might work, but this fails to resolve the question of how to address assets. In order to use system development charge funds to develop the park, the park would need to be on Tigard's books; this may preclude a lease.

Mr. Koellermeier relayed the water building was not addressed in the 1993 agreement. The City of Tigard plans to make substantial improvements to the water building and the facility may be affected by long-term downtown planning. He noted the building could change use sometime in the future. Commissioner Carroll interjected the building could not change use without the Board's approval.

Mr. Koellermeier proposed the Board open a discussion in which each of the partners could state what they would like to accomplish. He noted King City and Durham owned a very small share of the water building and he was unclear what their corporate interest would be in continuing to do so. He acknowledged the Board might want to protect its ownership of the building to be sure water customers are not asked to pay for a new facility in the future.

Mr. Koellermeier advised that from Tigard's perspective it was "messy" for the City to make an investment in an asset with multiple owners.

Commissioner Carroll responded the improvements could be considered lease tenant improvements. Mr. Koellermeier said that improvements made by public, non-profit entities might be given different consideration than improvements made by private, for-profit organizations. In order to craft solution that works for everyone, Mr. Koellermeier proposed the Board discuss what each of the members might like to accomplish and protect regarding mutually-owned assets.

Commissioner Carroll noted that although Tigard owned a 70 percent interest in the water building, the building was really owned by the rate payers. Mr. Koellermeier explained the rate payers are not an entity, whereas the Cities of Tigard and Durham exist as entities. He added the agreements were made between the City of Tigard and the cities of King City, Durham and the TWD.

Commissioner Carroll asserted there was an obligation to the water system, not to the City of Tigard. He acknowledged the Board could decide to enter into some type of agreement with Tigard. He pointed out Mr. Koellermeier's interests lie with the City of Tigard and Tigard water customers. Commissioner Carroll said the water building should be dedicated for uses related to the water system. There was a discussion about the differentiation between the City of Tigard and the water district.

Mr. Koellermeier acknowledged he represents both the Board and the City of Tigard and this was why he was seeking an amenable solution to the issue.

Commissioner Winn stated the financial health of the City of Tigard's water department is reflected in rate payers' water bills. Water customers, like King City and Durham, are affected by the success of Tigard's water department. Commissioner Winn added King City has a small interest in the water building. Since King City can't do anything with that interest, he asked if King City's share of the facility might be purchased by the City of Tigard. King City could use the revenue.

Mr. Koellermeier provided some historical background. The Board acquired the water building through a legislative process; no money was exchanged. Basically, custodial duties associated with this asset shifted from one public entity to another. If he were a Board member, Mr. Koellermeier said he might want a guarantee that Tigard would not increase the administration costs and subsequently raise rates for the use of the building. An agreement could be crafted to address any such concerns the Board may have.

Commissioner Winn noted his reading of the agreement clearly says the building belongs to the City of Tigard. Commissioner Carroll disagreed.

Mr. Koellermeier added the attorney hired by the TWD arrived at generally the same conclusion as Commissioner Winn. The attorney said if one party wanted to change the condition of an asset without the cooperation of the other partners, the issue would likely end up in court. The attorney concluded the party pursuing the change would likely prevail as long as the change was consistent with state law.

Commissioner Carroll said it did not make sense for the original parties to enter into such an agreement regarding common assets. The water building is an asset of the water district and should only be used as such. There should be no other consideration. Any City of Tigard use of the water building should be done by agreement between the water board, the Board and the City of Tigard.

Commissioner Sherwood noted the agreement didn't clearly define how the assets were to be addressed. She relayed that Gretchen Buehner would soon be serving as Tigard's representative on the Board. She is an attorney and will be helpful in resolving these asset issues. Commissioner Sherwood said there is a genuine need to get the matter addressed and resolved. She spoke in support of working together to clarify the asset ownership issue.

Commissioner Winn reiterated the original parties came up with this agreement and all the resources, including those of the TWD, were put into the pot. The agreement says the entity taking over jurisdiction also takes over the asset.

Mr. Koellermeier, speaking for the City of Tigard, commented Tigard did not want to create a hostile relationship with its IWB partners. Thus, he was proposing an agreement or amendment to the current agreement be developed in the hope of resolving current and future asset ownership issues.

Audience member and Chairperson of the TWD, Bev Froude, provided historical information about the original agreement and suggested there should be an additional discussion of this matter.

Mr. Koellermeier summarized that the City of Tigard was going to make an investment in the water building and it's reasonable to get the asset issue resolved as a part of that process. Mr. Koellermeier also mentioned the Canterbury property, noting he expected the park would be in the construction phase by July 2007.

Commissioner Carroll asserted if the Board sold a piece of the Canterbury property to the City of Tigard, then profits from the sale should be used to fund water-related projects. Mr. Koellermeier responded this was not how state law was structured. Commissioner Carroll said if state law was on Tigard's side, then Tigard should go ahead and "steal" the assets.

Commissioner Sherwood interjected the City of Tigard was not seeking to take over, but wanted to find a solution that was fair to everybody.

With regard to the Canterbury property, Mr. Koellermeier discussed the difference between system assets and other assets. The attorney representing the TWD suggested the Canterbury property be partitioned if Tigard wanted to convert the surplus property to a park.

Commissioner Carroll remarked the creation of a park at the Canterbury site would not provide any benefit to the rate payers of Durham. He declared any money from the sale of such assets should benefit the water system.

Mr. Koellermeier acknowledged Commissioner Carroll's suggestion made sense if the Board intended to sell the property on the open market. He noted the situation might be viewed differently when converting the property from one type of public use to another. Commissioner Carroll responded the public use was for the benefit of the City of Tigard. Mr. Koellermeier said a park at the Canterbury site would be the closest park to the unincorporated area.

Commissioner Sherwood suggested the discussion be continued to the next meeting when Tigard's new representative, Gretchen Buehner, would be in attendance.

6. *Update on Annexation/Bull Mountain Incorporation Legal Challenge*

Mr. Koellermeier reported there was no new information regarding the Cach Creek area annexation. He advised this item will be on the next agenda. He noted the final vote on the incorporation of Bull Mountain has been certified; formation of the new city did not pass.

7. *Follow-up Discussion on the Joint Meeting with Tigard and Lake Oswego City Councils*

The Board discussed their recent water partnership meeting with the Lake Oswego and Tigard City Councils. Mr. Koellermeier said he had received positive feedback from Lake Oswego. He added there would be another meeting in February or March and expects the partnership will be more attractive to Lake Oswego as that city begins to explore the cost of capital improvements.

Commissioner Carroll pointed out that Lake Oswego would be less likely to lose its water rights if they were being used.

The Board expressed concern about Lake Oswego's time line.

Mr. Koellermeier said he planned to provide the Board with information on cost and governance issues related to the partnership prior to the next joint meeting.

8. Informational Items

Term expirations for Commissioners Woodruff and Winn were discussed. It was noted:

- Councilor Gretchen Buehner will take over Councilor Woodruff's assignment to represent the City of Tigard on the IWB.
- Councilor Woodruff will continue to represent Tigard on other water-related matters.
- Councilor Sherwood will continue to serve as Tigard's alternate representative to the IWB.
- Commissioner Winn reported he will serve another term as King City's representative to the IWB.

9. Non-Agenda Items: None

10. Next Meeting – Wednesday, January 10, 2007, 5:30 p.m. – Water Auditorium

11. Adjournment

At 6:34 p.m. Commissioner Sherwood motioned to adjourn the meeting; Commissioner Winn seconded the motion. The motion was approved by unanimous vote.


Greer A. Gaston, IWB Recorder

Date: January 10, 2007